

**FILED**

MAY 11 2018

CLERK, US DISTRICT COURT, WDNY

Revised 05/01 WDNY

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**Carl Miller

(Name of Plaintiff or Petitioner)

v.

**MOTION TO PROCEED *IN FORMA PAUPERIS*  
AND SUPPORTING AFFIRMATION**17 -CV-00928-JVJoseph D'Amico

(Name of Defendant(s) or Respondent(s))

I, Joseph D'Amico, (print or type your name) am the plaintiff/petitioner in the above-entitled case and hereby request the Court's permission to proceed *in forma pauperis*.

In support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I state that because of my poverty I am unable to pay the costs of this action or to give security therefor and that I believe I am entitled to redress.

I further declare that the responses which I have made in this affirmation below are true.

1. Are you presently employed? Yes ☐ No ☒  
My Employer's Name and Address is: \_\_\_\_\_

My Gross Monthly Wages are: \$ \_\_\_\_\_

If you are not presently employed, state

Your Last Date of Employment: 4-1-2016

Your Gross Monthly Wages at that time: \$1200.00

Is your spouse presently employed? Yes ☐ No ☒

My Spouse's Employer's Name and Address is: \_\_\_\_\_

My Spouse's Gross Monthly Wages are \$ \_\_\_\_\_

2. Have you received **any money** from any of the following sources within the past twelve months:

a. Business, profession or self-employment? Yes ☐ No ☒

If yes, state **source** and **amount received** per month \$ \_\_\_\_\_

b. Rent payments, interest or dividends? Yes ☐ No ☒

If yes, state **source** and **amount received** per month \$ \_\_\_\_\_

c. Pensions, annuities, disability, or life insurance payments? Yes ☐ No ☒

If yes, state **source** and **amount received** per month \$ \_\_\_\_\_

d. Gifts or inheritances? Yes ☐ No ☒

If yes, state **source** and **amount** received per month \$ \_\_\_\_\_

e. Child Support? Yes ☐ No ☒

If yes, state **amount received** each month \$ \_\_\_\_\_

f. Government Benefits (Social Security, SSI, Welfare, AFDC, Veterans, etc.)? Yes ☐ No ☒

If yes, state **source** and **amount received** per month \$ \_\_\_\_\_

g. Friends, Relatives or any other source? Yes ☐ No ☒

If yes, state **source** and **amount received** per month \$ \_\_\_\_\_

If you have **not** received any money from any of the above sources, please explain how you are currently paying your expenses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. What is your total gross monthly income today: \$ 0

4. How much **cash** do you have on hand? \$ 0

5. How much money do you have in a **checking account(s)**? \$ 0
6. How much money do you have in a **savings account(s)**? \$ 0
7. If you are an inmate of a correctional facility, state the amount of funds in your inmate account (**NOTE: prisoners must have inmate account balances certified by an authorized official of the correctional facility and must include a signed Authorization for payment of the filing fee**): \$15.00
8. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes ☐ No ☒  
If so, **describe** the property in detail and give an **estimated value** of the property: \_\_\_\_\_  
\_\_\_\_\_  
If you own property, are you paying off a **loan** or **mortgage** on it? Yes ☐ No ☒  
If yes where are you obtaining the money to make such payments: \_\_\_\_\_  
\_\_\_\_\_
9. If you are not an inmate, state your **total monthly household expenses**:  
Rent or mortgage \$ \_\_\_\_\_ Food \$ \_\_\_\_\_ Utilities \$ \_\_\_\_\_ All other expenses \$ \_\_\_\_\_  
If your monthly expenses exceed the amount of income you listed in # 3 above, please explain how you are paying your expenses  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. List **all** of the people who are in your household and state the amount of money each one contributes to household expenses each month: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. Have you been adjudicated bankrupt within the past ten (10) years? Yes ☐ No ☒  
If the answer is yes, please include the court and date of filing \_\_\_\_\_  
\_\_\_\_\_

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed on 5-1-2018  
(Date)

[Signature]  
(Applicant's Signature)

### **PRISON CERTIFICATION SECTION**

(Required for Prisoner Requests Only; Prisoner Requests **Must** Have This Section Completed By Prison Official)

I **certify** that the movant has the sum of \$ 8.00 on account to his/her credit at the Greene Correctional Facility where s/he is currently confined.

I **further certify** that the movant has the following securities to his/her credit according to the institution's records: NIA

I **further certify** that the movant's average account balance was \$ 52.25 during the last six months.

[Signature]  
Signature of Authorized Officer of Institution

JAMES P. NEAREY JR  
Print Name of Authorized Officer of Institution

ICS902-06 STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES 05/03/18  
67-GREENE  
INMATE STATEMENT FOR THE PERIOD 05/01/18 THRU 05/03/18

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*****
* NAME-DAMICO JOSEPH DEPT ID-17B0649 CELL LOC-0B-01-36B NYSID-08873229Q *
*
*
*****
FACILITY DATE --- TRANSACTION --- TR-NUM RECEIPT(+) DISBURS(-) COLLECTED AMT STATEWIDE STATEWIDE
(COMMENTS) STARTING BALANCE AT GREENE SPENDABLE ACCT BAL
BALANCE FORWARD 74.11 8.20 82.31
82.31
PERIOD ENDING TOTALS .00 .00 74.11 8.20 82.31
ENDING BALANCE AT GREENE 82.31
20% OF AVERAGE 6 MO SPENDABLE BALANCE 1.98 20% OF AVERAGE 6 MO DEPOSIT AMT 6.45
LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 12.41
THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY
----- ENCUMBRANCE BREAKDOWN -----
REASON DATE IMPOSED --- NOTES --- TOTAL OWED COL MTDATE COL TO-DATE BALANCE DUE CNTY/ORI CASE
SURCHARGE 03/13/17 CVF25/1600 2016 325.00 .00 74.11 250.89 ERIE
* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

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Court Clerk,

5-7-2018

Enclosed are the forms that was sent to me to fill out to be appointed an attorney. Today I received a letter from you stating that I was in "Default" with this case. Ever since I 1st received a letter from the defense's attorney or this court I have responded immediately. I do not have access to go online to file/answer anything because I am an inmate at Greene Correctional Facility. I want my day in court with this matter because I had nothing at all to do with this.

Also, the letter that I received from you on 4/27/2018 states that I did respond immediately after being served by the defense. I just don't understand how I am in default if I have answered every letter addressed to me, which the defense also admits to in his motion to find me in default. Please respond to me ASAP on what the next step is.

Thank You

*Dea Miller*

**GREENE CORRECTIONAL FACILITY**

P.O. BOX 975

COXSACKIE, NEW YORK 12051-0975

NAME: Joseph D'Amico DIN: 17B0649

GREENE



CORRECTIONAL FACILITY

NEOPOST

05/08/2018

US POSTAGE

\$000.47<sup>0</sup>



ZIP 12051

USDC HWY 19

MAY 11 2018

BUFFALO

Clerk of Court

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Legal mail

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